IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	)	
	)	Confirmation No: **7840**
Raj Dosanjh	)	
	)	Group Art Unit: **3628**
Serial No.: **10/630,432**	)	
	)	Examiner: **Vetter, Daniel**
Filed: **July 29, 2003**	)	
	)	
For: **A Method for Determining Commodity Pricing Within an Industry**	)	Atty. Docket No.: **300110548-2**

REPLY BRIEF RESPONSIVE TO EXAMINER'S ANSWER

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Examiner's Answer mailed October 31, 2008 has been carefully considered. In response thereto, please consider the following remarks.

AUTHORIZATION TO DEBIT ACCOUNT

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 08-2025.

REMARKS

The Examiner has provided in the Examiner's Answer various responses to arguments contained in Applicant's Appeal Brief. Although the Examiner's Answer has added some additional remarks in response to Applicant's arguments, the substance of the rejections and the Examiner's positions have not changed. Accordingly, Applicant stands behind the arguments set forth in the Appeal Brief. In addition, Applicant addresses selected responses in the following.

Claims 1-2, 4-7, 11-13, 15-18, and 23-24 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Takriti* (U.S. Patent No. 6,021,402) in view of *Pitchford* (U.S. Patent No. 6,327,541) in further view of *Rose* (U.S. Patent No. 5,963,920). Claims 8-10 and 19-21 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Takriti* in view of *Pitchford* in further view of *Rose* in further view of Official Notice.

On page 4 of the Examiner's Answer, a new ground of rejection is introduced. Claims 1, 2, and 4-11 have been rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

In response, Applicant submits that the claim language includes a transformation of an electronic signal representative of a physical subject which is interpreted to be statutory subject matter by the Federal Circuit. Claim 1, as an example, transforms representations of nature of growth of a customer's usage of a commodity, the commodity required, and the use of the quantity into a price for the commodity used. Further, the claim recites that a provision of the commodity is transformed into more or

less of the provision of the commodity if usage monitoring indicates that the customer has a need for more or less of the commodity. For at least these reasons, claims 1, 2, and 4-11 comply with the requirements of 35 U.S.C. § 101 and the rejection should be overturned.

On page 15 with respect to the 35 U.S.C. § 103 rejections, the Examiner states that Applicant has failed to meet the standard for unobviousness since the invention is merely a combination of old elements. In response, Applicant disagrees with this reasoning, since all of the elements or features that makeup Applicant's claimed subject matter are not disclosed in the cited art, as explained in Applicant's Appeal Brief. In particular, it has been shown that *Takriti* fails to disclose a characterization of a customer's usage of power supplied by the supplier being made and a determination of a price for a quantity of power requested by a customer being made.

Further, it has been shown that *Pitchford* fails to disclose a determination of a price for a quantity of power requested by a customer being made and a level of commercial risk being determined for a customer which is a basis for determining the price for a quantity of power specified by the customer. Diversely, *Pitchford* describes an electronic energy management system that allows a customer or user to view his or her energy usage over a communication network. Therefore, *Pitchford* does not remedy the deficiencies of *Takriti*. Thus, the two references considered together do not produce the claimed invention.

In addition, it has been shown, with regard to *Rose*, that *Rose* fails to disclose a determination of a price for a quantity of power requested by a customer being made

and a level of commercial risk being determined for a customer which is a basis for determining the price for a quantity of power specified by the customer. In particular, *Rose* describes a method of inventory control using electronic sensors so that a supplier is provided up to the minute stock levels of the supplier's inventory. *Rose* describes that the status of a storage rack for a supplier is monitored and provided to the supplier which enables the supplier to determine the status of its inventory and whether the supplier should reorder supplies to restock its inventory. *See* col. 2, lines 39-52, col. 5, lines 30-49, and col. 7, lines 1-18. As such, *Rose* does not disclose that a customer's usage of commodities is used by a supplier to determine the pricing of a commodity provided by the supplier to the customer of the supplier. Rather, *Rose* describes that a supplier monitors its own inventory levels so that it may maintain inventory levels above a desired level. Therefore, *Rose* does not remedy the deficiencies of *Pitchford and Takriti.* Thus, the three references considered together do not produce the claimed invention.

For at least these reasons, *Pitchford* in view of *Takriti* in further view of *Rose* does not teach or suggest the subject matter of independent claims 1, 12, and 23-24 as an example.

Using similar reasoning, the cited art also does not teach or suggest the subject matter of remaining claims 2, 4-11, 13, and 15-21. Therefore, for the reasons presented herein and the reasons earlier presented in the Appeal Brief, the cited reference is deficient in disclosing claimed features, and the arguments set forth in the Appeal Brief still stand. The rejections of the pending claims should be overturned.

In summary, it is Applicant's position that Applicant's claims are patentable over the applied cited art reference and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

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